



365 RIFLE CAMP ROAD  
WOODLAND PARK, NEW JERSEY 07424  
973-247-9000  
973-247-9199 (FAX)  
  
1500 LAWRENCE AVENUE  
CN7807  
OCEAN, NEW JERSEY 07712  
732-922-1000  
732-922-6161 (FAX)  
  
214 CARNEGIE CENTER  
SUITE 112  
PRINCETON, NEW JERSEY 08540  
609-751-5551  
  
140 GRAND STREET  
SUITE 705  
WHITE PLAINS, NEW YORK 10601  
800-569-3886  
  
41 UNIVERSITY DRIVE  
SUITE 400  
NEWTOWN, PENNSYLVANIA 18940  
267-757-8792  
[www.ansellgrimm.com](http://www.ansellgrimm.com)

RICHARD B. ANSELL ♦  
PETER S. FALVO, JR.  
JAMES G. AARON  
PETER B. GRIMM  
MITCHELL J. ANSELL  
BRIAN E. ANSELL ♦  
ALLISON ANSELL ♦†  
MICHAEL V. BENEDETTO  
DAVID B. ZOLOTOROFE  
DONNA L. MAUL ♦  
RICK BRODSKY ♦  
LAWRENCE H. SHAPIRO ♦□  
ROBERT A. HONECKER, JR. □§  
JENNIFER S. KRIMKO  
FREDERICK C. RAFFETTO ~  
JOSHUA S. BAUCHNER ♦  
DAVID J. BYRNE □  
ANDREA B. WHITE □  
  
EDWARD J. AHEARN  
JASON S. KLEIN ♦  
MELANIE J. SCROBLE  
BARRY M. CAPP □  
DOUGLAS A. DAVIE ♦  
ELYSA D. BERGENFELD  
RICHARD B. LINDERMAN □  
CRAIG D. GOTILLA □  
KEVIN M. CLARK  
KRISTINE M. BERGMAN □  
JESSICA T. ZOLOTOROFE  
TARA K. WALSH ♦  
RAHOOAL PATEL ♦  
NICOLE D. MILLER □  
ALFRED M. CASO  
ANTHONY J. D'ARTIGLIO □  
SETH M. ROSENSTEIN ♦  
ASHLEY WHITNEY ♦

COUNSEL  
HON. ANTHONY J. MELLACI, JR., J.S.C. (RET)  
STACEY R. PATTERSON ♦  
JAMES A. SYLVESTER  
ROY W. HIBBERD □  
HON. RAYMOND A. HAYSER, J.T.C. (RET)  
KELLY M. CAREY

RETired  
ROBERT I. ANSELL  
LISA GOLDWASSER ♦  
  
IN MEMORIAM  
LEON ANSCHELEVITZ (1929-1986)  
MAX M. BARR (1929-1993)  
MILTON M. ABRAMOFF (1935-2004)  
DAVID K. ANSELL ♦ (1962-2019)

LICENSED ALSO IN:  
△ D.C. □ MASS. □ N.Y. □ WASH.  
□ PENN. □ FLA. □ CALIF.

† FELLOW, AMERICAN  
ACADEMY OF MATRIMONIAL  
LAWYERS

‡ CERTIFIED BY THE SUPREME  
COURT OF NEW JERSEY AS A  
CIVIL TRIAL ATTORNEY

§ CERTIFIED BY THE SUPREME  
COURT OF NEW JERSEY AS A  
CRIMINAL TRIAL ATTORNEY

• CERTIFIED BY THE SUPREME  
COURT OF NEW JERSEY AS A  
MATRIMONIAL LAW ATTORNEY

**Reply to: Woodland Park  
Telephone: (973) 247-9000  
Fax: (973) 247-9199  
E-mail: jb@ansellgrimm.com**

July 26, 2022

**Via ECF**

Honorable Lorna G. Schofield, U.S.D.J.  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, New York 10007

Re: *Stephen Gannon v. 124 East 40th Street LLC*  
Civ. A. No. 1:22-cv-361-LGS

Dear Judge Schofield:

As you know, we represent Defendant 124 East 40th Street LLC (“Defendant”) in the above-referenced matter. We write to address the purported “Joint Status Letter” filed last night by Plaintiff’s counsel.

By way of background, pursuant to the Civil Case Management Plan and Scheduling Order entered by the Court on May 24, 2022 (Docket No. 46), the parties were to submit a Joint Status Letter as detailed in Individual Rule IV.A.2. After again not having heard from Plaintiff’s counsel, our office initiated contact yesterday advising that, despite the deadline having arrived, we had not received a proposed draft letter and requested that one be provided without further delay.

Several hours later, counsel forwarded a proposed draft letter that was misleading and inaccurate. Immediately following a court appearance, we responded with proposed redline edits that corrected certain inaccuracies and revised the letter to conform with Your Honor’s Individual Rule. Counsel then responded at 7:20 p.m. when we were out of the office, and at 10:50 p.m.

Honorable Lorna G. Schofield, U.S.D.J.

July 26, 2022

Page 2

submitted the “Joint Status Letter” without our consent and approval. A copy of the email communications between counsel is annexed hereto for reference.

For the sake of brevity, we respectfully refer Your Honor to the letter filed by Plaintiff last night. Addressing the substance of the letter, Defendant’s discovery requests were served by electronic and regular mail, as Federal Rule of Civil Procedure 5 requires. Similarly, on July 20, 2022, Defendant served its responses to Plaintiff’s Request to Admit, Request for Production and Interrogatories via regular mail. Counsel’s letter to the Court was the first time the issue of non-receipt was raised by Plaintiff, and we will today re-serve by regular mail with a courtesy copy sent by electronic mail.

With regard to Plaintiff’s commentary about his failure to properly serve discovery in accord with Federal Rule of Civil Procedure 5(b)(2), we reject the assertion that Defendant “seek[s] to avoid responding to discovery served in the normal course...” Plaintiff’s counsel impermissibly served three sets of discovery requests in a single PDF file by email while the primary attorney handling the file was on paternity leave. Notwithstanding Plaintiff’s admitted violation of the Federal Rules, we nevertheless responded to the discovery demands and requests for admission. As further evidence of Plaintiff’s bad faith, rather than meet and confer with the undersigned regarding the purportedly “missing” responses, he raised the issue for the first time in his unilateral, “joint” submission and by way of the contemporaneous issuance of an extortionist settlement demand.

As to counsel’s opinion that the discovery deadlines should be extended, Defendant sees no basis to do so. All discovery demands issued to Defendant have been responded to, and we anticipate that discovery will continue in due course. A further extension of the pendency of this matter will only prejudice Defendant, which will be forced to continue litigating a frivolous matter for a longer period of time.

We are available to address this, or any other matter, at the Court’s convenience.

Respectfully submitted,

s/Joshua S. Bauchner  
Joshua S. Bauchner, Esq.

cc: Adam D. Ford, Esq. (via ECF)

**Seth M. Rosenstein**

---

**From:** Adam Ford <adam.ford@fordhufflaw.com>  
**Sent:** Monday, July 25, 2022 7:20 PM  
**To:** Seth M. Rosenstein  
**Cc:** Josh Bauchner; John McLay  
**Subject:** RE: [EXT] Re: Gannon v. 124 East 40th Street, LLC  
**Attachments:** 2022.07.25 22cv361 Joint Status Update Letter - v3.docx

This email has been deemed safe, but always exercise caution when opening any attachments.

---

Round 3 attached.

If you have any changes or edits, please just make them right in the document and I'll run a redline comparison. Please do not use track changes.

Thanks,  
Adam

---

Adam Ford  
Ford & Huff LC  
Phone: 212.287.5913  
Email: [adam.ford@fordhufflaw.com](mailto:adam.ford@fordhufflaw.com)

Sent via [Superhuman](#)

On Mon, Jul 25, 2022 at 2:45 PM, Seth M. Rosenstein <[smr@ansellgrimm.com](mailto:smr@ansellgrimm.com)> wrote:

Adam:

My apologies for the delay in responding; I have been before the court in another matter this afternoon. The proposed joint letter with our redlines is attached.

Best,

Seth

**Seth M. Rosenstein**

Ansell Grimm & Aaron, P.C.

(973) 247-9000

---

**From:** Adam Ford <[adam.ford@fordhufflaw.com](mailto:adam.ford@fordhufflaw.com)>  
**Sent:** Monday, July 25, 2022 2:54 PM  
**To:** Seth M. Rosenstein <[smr@ansellgrimm.com](mailto:smr@ansellgrimm.com)>  
**Cc:** Josh Bauchner <[jb@ansellgrimm.com](mailto:jb@ansellgrimm.com)>; John McLay <[john.mclay@fordhufflaw.com](mailto:john.mclay@fordhufflaw.com)>  
**Subject:** [EXT] Re: Gannon v. 124 East 40th Street, LLC

This email has been deemed safe, but always exercise caution when opening any attachments.

---

Seth,

Please see attached. With your approval we will get on file this afternoon.

Best regards,

Adam

---

Adam Ford  
Ford & Huff LC  
Phone: 212.287.5913  
Email: [adam.ford@fordhufflaw.com](mailto:adam.ford@fordhufflaw.com)

Sent via [Superhuman](#)

On Mon, Jul 25, 2022 at 12:10 PM, Seth M. Rosenstein <[smr@ansellgrimm.com](mailto:smr@ansellgrimm.com)> wrote:

Counsel:

The May 24, 2022 CMP and Scheduling Order requires the parties to submit a joint status letter in accord with Individual Rule IV.A.2. As you know, the onus is on plaintiff's counsel to prepare a draft letter for defendant counsel's

consideration. Despite the deadline being today, we have not received a proposed draft letter. Please forward a proposed draft letter without delay.

Regards,

Seth

**Seth M. Rosenstein**

Ansell Grimm & Aaron, P.C.

(North Jersey Office – Please Send Correspondence to this Address)

365 Rifle Camp Road

Woodland Park, New Jersey 07424

*t:* (973) 247-9000 x425

*f:* (973) 807-1835

*m:* (845) 893-8685

(White Plains Office)

140 Grand Street, Suite 705

White Plains, New York 10601

Admitted to Practice in New Jersey and New York